

### **REMARKS**

The applicant respectfully request reconsideration in view of the amendment and the following remarks. The applicant has amended claims 3, 5, 7 and 14. Claims 3 and 38 are the only independent claims.

Claims 5-7, 17-21, 25-29, 32, 33, 35-37, and 39 are withdrawn from consideration. Claims 2-4, 8, 11-14, and 22-24 are rejected under 35 U.S.C. 102(e) as being anticipated by US 2000/062930 A1 (Roberts et al.). Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts et al. and further in view of WO 03/074628 A (Maxted et al.). Claims 3, 4, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2002/0093005 A1 (Sohn et al.) in view of US 2003/0017361 A1 (Thompson et al.). Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts et al. in view of US 6,670,054 B1 (Hu et al.). Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts et al. in view of WO 02/077060A (Treacher et al.) English equivalent (US 2004/0135131 A1) relied upon. The applicant respectfully traverses these rejections.

Claims 5-7, 17-21, 25-29, 32, 33, 35-37, and 39 are withdrawn from consideration.

### **Rejections under 35 U.S.C. 102(e)**

Claims 2-4, 8, 11-14, and 22-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Roberts. The applicant has amended claim 3 by deleting from the definition of R, "or combinations of 2 or 3 of these systems". Roberts explicitly discloses only polymers having dicarbazole units having aromatic groups (containing a biphenyl group) between the two carbazole groups (see formula XCII in US 2004/0062930 A1 and formula KLCBPI in WO 03/074628 A1). Again, Roberts requires a biphenyl group. The applicant believes that "R" in the definition of claim 3 does not include biphenyl. Therefore, this rejection should be withdrawn.

**Rejections under 35 U.S.C. 103(a)**

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts and further in view of Maxted. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts in view of Hu. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts et al. in view of Treacher.

As stated above, Roberts requires a biphenyl group. The applicant believes that "R" in the definition of claim 3 does not include biphenyl.

The applicant has essentially four independent claims (claims 3, 25, 27 and 38). The applicant amended the independent claim 3 and claim 3 requires that R requires a group that is not a biphenyl group. Independent claims 25 and 27 have the same definition of R as claim 3. The applicant's claimed invention of claim 3 now excludes the formula XCII of Roberts. The applicant has deleted biphenyl from the definition of R.

With respect to independent claim 38, the applicant has previously rewritten claim 3 into independent form but kept the broader definition of R. However, the applicant has incorporated claim 11 into claim 38 with the exception of only requiring that the polymer is selected from the group consisting of ortho-phenylene, 9,10-anthracenylene, 2,7-phenanthrenylene, 1,6-pyrene, 2,7-pyrene, 4,9-pyrene, 2,7-tetrahydropyrene, oxadiazolylene, 2,5-thiophenylene, 2,5-pyrrolylene, 2,5-furanylene, 2,5-pyridylene, 2,5-pyrimidinylene, 5,8-quinolinylenes, spiro-9,9'-bifluorene and heteroindenofluorene. The applicant does not believe that these groups are taught by Roberts. The Examiner has agreed and relied upon Treacher for this teaching.

The other secondary references that the Examiner has applied against some of the dependent claims are Maxted and Hu.

A statement that modifications of the prior art to meet the claimed invention would have been “obvious to one of ordinary skill in the art at the time the invention was made” because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references. *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993). See MPEP § 2143.01 IV. “[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007) quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Furthermore, the Examiner cannot selectively pick and choose from the disclosed parameters without proper motivation as to a particular selection. The mere fact that a reference may be modified to reflect features of the claimed invention does not make the modification, and hence the claimed invention, obvious unless the prior art suggested the desirability of such modification. *In re Mills*, 916 F.2d 680, 682, 16 USPQ2d 1430 (Fed. Cir. 1990); *In re Fritch*, 23 USPQ2d 1780 (Fed. Cir. 1992). Thus, it is impermissible to simply engage in a hindsight reconstruction of the claimed invention where the reference itself provides no teaching as to why the applicant’s combination would have been obvious. *In re Gorman*, 933 F.2d 982, 987, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991). For the above reasons, these rejections should be withdrawn.

#### **Rejection Over Sohn in View of Thompson**

Claims 3, 4, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sohn in view of Thompson.

As the Examiner has correctly recognized Sohn does not disclose the triplet emitter let alone a tripllett emitter mixed with a polymer as acknowledged by the Examiner at page 7 of the office action.

Again, as stated above, a statement that modifications of the prior art to meet the claimed invention would have been “obvious to one of ordinary skill in the art at the time the invention was made” because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references. *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993). See MPEP § 2143.01 IV. “[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007) quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Furthermore, the Examiner cannot selectively pick and choose from the disclosed parameters without proper motivation as to a particular selection. The mere fact that a reference may be modified to reflect features of the claimed invention does not make the modification, and hence the claimed invention, obvious unless the prior art suggested the desirability of such modification. *In re Mills*, 916 F.2d 680, 682, 16 USPQ2d 1430 (Fed. Cir. 1990); *In re Fritch*, 23 USPQ2d 1780 (Fed. Cir. 1992). Thus, it is impermissible to simply engage in a hindsight reconstruction of the claimed invention where the reference itself provides no teaching as to why the applicant’s combination would have been obvious. *In re Gorman*, 933 F.2d 982, 987, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991). The applicant does not believe that one of ordinary skill in the art would combine Sohn with Thompson. For the above reasons this rejection should be withdrawn.

**Claim 2**

The Examiner has rejected pending claim 2 only under 35 U.S.C. 102 but not under 35 U.S.C. 103. As stated above, the applicant believes that independent claim 3 is no longer anticipated by Roberts. As a consequence claim 2 should be allowable.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 14113-00033-US from which the undersigned is authorized to draw.

Dated: April 27, 2009

Respectfully submitted,

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